

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 3:22-cr-113

vs.

TYRONE JASON HARRIS, SR.,

District Judge Michael J. Newman

Defendant.

ORDER: (1) CANCELING SENTENCING HEARING ON JUNE 20, 2023; (2) SETTING A BRIEFING SCHEDULE ON WHETHER DEFENDANT’S CONVICTION UNDER OHIO REVISED CODE § 2911.01(A)(1) QUALIFIES AS A CRIME OF VIOLENCE UNDER U.S.S.G. § 4B1.2(a)(2); AND (3) SCHEDULING A PSR OBJECTION HEARING FOR JULY 10, 2023 AT 3:30 PM

This criminal case is before the Court prior to Defendant’s sentencing hearing scheduled for June 20, 2023 and after this Court ordered the Government to indicate whether it opposed Defendant’s objection to the Presentence Investigation Report (“PSR”). Doc. No. 35. The Government responded in opposition to Defendant’s claim that his conviction for “Aggravated Robbery,” under Ohio Revised Code § 2911.01(A)(1), does not qualify as a “crime of violence” under U.S.S.G. § 4B1.2 in light of *United States v. White*, 58 F.4th 889 (6th Cir. 2023). Doc. No. 36. In responding, the Government argues, *inter alia*, that *United States v. Carter*, --- F.4th ---, No. 22-3699, 2023 WL 3773673, at *2 (6th Cir. June 2, 2023) makes clear that Defendant’s conviction is a crime of violence under § 4B1.2(a)(2). *Carter* held that “Robbery,” under Ohio Revised Code § 2911.02(A)(2), is a crime of violence because it “categorically matches th[e] definition” of “extortion” under § 4B1.2(a)(2). *Id.* Thus, the Government argues that Defendant’s conviction qualifies under § 4B1.2’s “enumerated offense” clause. *Id.*

To give this issue the consideration it deserves, the Court shall set a briefing schedule and

a hearing for both parties to fully express their respective positions. Accordingly, the Court: (1) **CANCELS** the sentencing hearing previously scheduled for June 20, 2023; (2) **SETS** a briefing schedule on whether Defendant's conviction for "Aggravated Robbery" under Ohio Revised Code § 2911.01(A)(1) qualifies as a "crime of violence" under § 4B1.2; and (3) **SCHEDULES** a PSR Objection Hearing for **July 10, 2023 at 3:30 p.m. in Courtroom 4**.

Defendant's response brief in opposition to the Government is due **on or before June 22, 2023**. The Government may, but is not required to, file a reply brief **on or before June 29, 2023**.

IT IS SO ORDERED.

June 8, 2023

s/ Michael J. Newman
Hon. Michael J. Newman
United States District Judge